IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WP(C).No. 34782 of 2007(N)

PETITIONER:

M.H.WAHEEDA, PROPRIETOR,
M/S.HINDUSTAN PAINTS, MEETHAL MANGAD,
KASARAGOD DISTRICT.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS:

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1. THE APPELLATE ASSISTANT COMMISSIONER,
SALES TAX, KOZHIKODE.

2. THE COMMERCIAL TAX OFFICER, KASARGOD.

3. THE THASILDAR (REVENUE RECOVERY),
KASARAGOD.

BY G.P.SRI.MATHEW VADAKKEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-11-2007 , THE COURT ON 23/11/2007 DELIVERED THE FOLLOWING:

Antony Dominic, J.

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W.P.(C) No. 34782 of 2007

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Dated this the 23rd day of November, 2007

JUDGMENT

Against Ext.P2 order of assessment, the petitioner has filed Ext.P4 appeal before the 1st respondent. During the pendency of the appeal revenue recovery proceedings have been initiated against him and Ext.P5 is the notice. At this stage this writ petition has been filed for staying Ext.P5 notice contending that the petitioner is entitled to total exemption.

2. I am not persuaded to examine the merits of the contention raised by the petitioner at this stage. Since the appellate authority is seized of the issue, that authority has to consider the contention of the petitioner and decide the same.

3. Therefore, I dispose of the writ petition directing that the 1st respondent shall consider and pass orders on Ext.P4 appeal filed by the petitioner as expeditiously as possible, at any rate within four weeks from the date of receipt of copy of this judgment. In the meanwhile, further proceedings pursuant to Ext.P5 shall stand deferred on the petitioner remitting an amount of Rs.25,000/- within three weeks from today.

4. Needless to say that if the petitioner succeeds in the field, the amount will be refunded irrespective of Ext.P2.

5. Petitioner shall produce a copy of this judgment before the 1st respondent for compliance.

Antony Dominic,
Judge.

mn.